

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 9/13/2012

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

Modification No. 12 to SDA 2010-B

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Modification No. 12 to the Supplemental Development Agreement TIF-5, Series 2010-B to the Annexation and Development Agreement between the City of Huntsville and LW Redstone Company, LLC.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Mary C. Carter

Date: 9/11/12

RESOLUTION NO. 12-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Modification No. 12 to Supplemental Development Agreement by and between the City of Huntsville and LW Redstone Company, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 12 to Supplemental Development Agreement TIF5 Series 2010-B between the City of Huntsville and LW Redstone Company, LLC," consisting of three (3) pages and the date of September 13, 2012, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 13th day of September, 2012.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 13th day of September, 2012.

Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA)
COUNTY OF MADISON)

**MODIFICATION NO. 12 TO SUPPLEMENTAL DEVELOPMENT
AGREEMENT TIF5 – SERIES 2010-B TO ANNEXATION AND
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF
HUNTSVILLE AND LW REDSTONE COMPANY, LLC, AS
ADOPTED AND APPROVED BY RESOLUTION NO. 10-892
ON OCTOBER 28TH, 2010 AND AS AMENDED BY
MODIFICATIONS NO. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11.**

MODIFICATION No. 12

Pursuant to Section 7.3 of the Annexation and Development Agreement dated March 25, 2010, ("Agreement"), between THE CITY OF HUNTSVILLE, ALABAMA, a municipal corporation organized and existing pursuant to the laws of the State of Alabama ("City") and L W REDSTONE COMPANY, LLC, a Delaware limited liability company ("Owner"), City and Owner enter into this Modification No. 12 to the Supplemental Development Agreement (SDA) TIF5 Series 2010-B, which was previously adopted and approved on October 28, 2010 and previously amended on May 12, 2011, June 23, 2011, July 14, August 11, August 25, 2011, September 22, 2011, December 15, 2011, January 26, 2012, March 22, 2012, May 24, 2012, and June 14, 2012 and hereby provide more specifically for the obligations of City and Owner.

Modifications to Scope of Work and allocations within the \$20,000,000 Maximum Amount of the prior Supplemental Development Agreement referenced above are as follows:

1. Within Section B., the amount originally budgeted and allocated for the contract with Reed Contracting Services, Inc. for Redstone Gateway, Package 1E-Rideout Road Interim Improvements, Project No. 65-11-SP08, as adopted by Resolution No. 12-42 on January 12, 2012, was \$1,088,344.22. Change Order No. 1, an increase in the amount of \$34,230.01, was approved by Resolution 12-489 and was funded by Modification No. 1 to SDA 2012-B. Change Order No. 2 in the amount of \$15,775.00 is needed to incorporate Revision 2 to add temporary right turn lane for Goss Road per Redstone Arsenal's direction. The new revised total contract amount will be \$1,138,349.23. Therefore, the amount of \$15,775.00 will be transferred from the category in Section B. OWNER IMPROVEMENTS, the subsection entitled: "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED".
2. Within Section B., the amount originally budgeted and allocated for the contract with Wiregrass Construction Co, Inc., Package 1B-1, Project # 65-11-SP05 for Fine Grading, Erosion Control, Storm, Curb and Paving was \$2,407,859. The original contract, as adopted by Resolution No. 11-279 was awarded for \$ 2,097,000.00. Change Order No. 1, an increase in the amount of \$310,858.61 was approved by Resolution No. 11-722 and Change Order No. 2 in the amount of \$ 76,512.50 was approved by Resolution No. 12-345. Change Order No. 3 in the deductive amount of \$40,687.63 will decrease the contract by that amount resulting in a revised total contract amount of \$2,443,683.48. This Change Order No. 3 is needed to incorporate field directive #2 to undercut unsuitable soils at the west end of Resolute Way and replace with stone and also to finalize all allowances in package 1B-1 Fine Grading, Erosion Control, Storm, Curb and Paving. Therefore, the amount of \$40,687.63 will be transferred to the category in Section B. OWNER IMPROVEMENTS, the subsection entitled: "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED". This contract has been funded in its entirety by SDA 2010-B and the modifications thereto.

President of the City Council of the
City of Huntsville, Alabama
Date: _____

3. Within Section B. OWNER IMPROVEMENTS, the subsection entitled "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED," the amount of \$13,996.69 allocated and budgeted for undefined engineering and construction costs is hereby increased by a total of \$24,912.63 to \$38,909.32

All other terms and conditions of the SDA TIF5-SERIES 2010-B, as previously modified, remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

("OWNER")

L W REDSTONE COMPANY, LLC

Dated: _____, 2012

By: _____

Its: _____

STATE OF MARYLAND)

COUNTY OF HOWARD)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that _____, as _____, of LW Redstone Company, LLC, a Delaware corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the _____ day of _____, 2012.

(SEAL)

Notary Public
My Commission Expires: _____

("CITY")

THE CITY OF HUNTSVILLE, ALABAMA,
A municipal corporation

Dated: _____, 2012

By: _____

Tommy Battle
Mayor

ATTEST:

Charles E. Hagood
Clerk-Treasurer

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that Tommy Battle and Charles E. Hagood, as Mayor and City Clerk-Treasurer, respectively, of the City of Huntsville, Alabama, a municipal corporation, are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the ____ day of _____, 2012.

(SEAL)

Notary Public
My Commission Expires: _____

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 9/13/2012

Department Contact: Cissy Cates

Phone # 427-5026

Contract or Agreement: Mod. 12 to SDA TIF5-Series 2010-B

Document Name: Modification No. 12 to the SDA LW Redstone, TIF5 Series 2010B

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
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Grant-Funded Agreements

<u>Not Applicable</u>	Grant Name:
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Department	Signature	Date
1) Originating	<i>Mary C. Cates</i>	9/11/12
2) Legal	<i>Mary C. Cates</i>	9/11/12
3) Finance		
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		